



PLANNING COMMISSION SYNOPSIS

Wednesday, September 12, 2007

6:30 p.m. Regular Meeting

Council Chambers

First Floor, City Hall Wing

200 East Santa Clara Street
San José, California

Ash Kalra, Chair

Randi Kinman, Vice-Chair

Xavier Campos Lisa Jensen
Matt Kamkar Christopher Platten
Jim Zito

Joseph Horwedel, Director
Planning, Building and Code Enforcement

NOTE

To listen to the audio recording of the Planning Commission, please go to the Planning website at
http://sanjose.granicus.com/ViewPublisher.php?view_id=17

NOTE

To arrange an accommodation under the Americans with Disabilities Act to participate in this public meeting, we ask that you call (408) 535-7800 (VOICE) or (408) 998-5299 (TTY) at least two business days before the meeting. If you requested such an accommodation, please identify yourself to the technician seated at the staff table. If you did not call in advance and do now need assistance, please see the technician.

NOTICE TO THE PUBLIC

Good evening, my name is **Ash Kalra** and I am the Chair of the Planning Commission. On behalf of the entire Planning Commission, I would like to welcome you to the Planning Commission Public Hearing of **Wednesday, September 12, 2007**. Please remember to turn off your cell phones and pagers. Parking ticket validation machines for the garage under City Hall are located at the rear of the Chambers. If you want to address the Commission, **fill out a speaker card (located on the table by the door, on the parking validation table at the back, and at the bottom of the stairs near the Audio-Visual Technician. Deposit the completed card in the basket near the Planning Technician. Please include the agenda item number (not the file number) for reference. Example: 4a, not PD06-023.**

The procedure for this hearing is as follows:

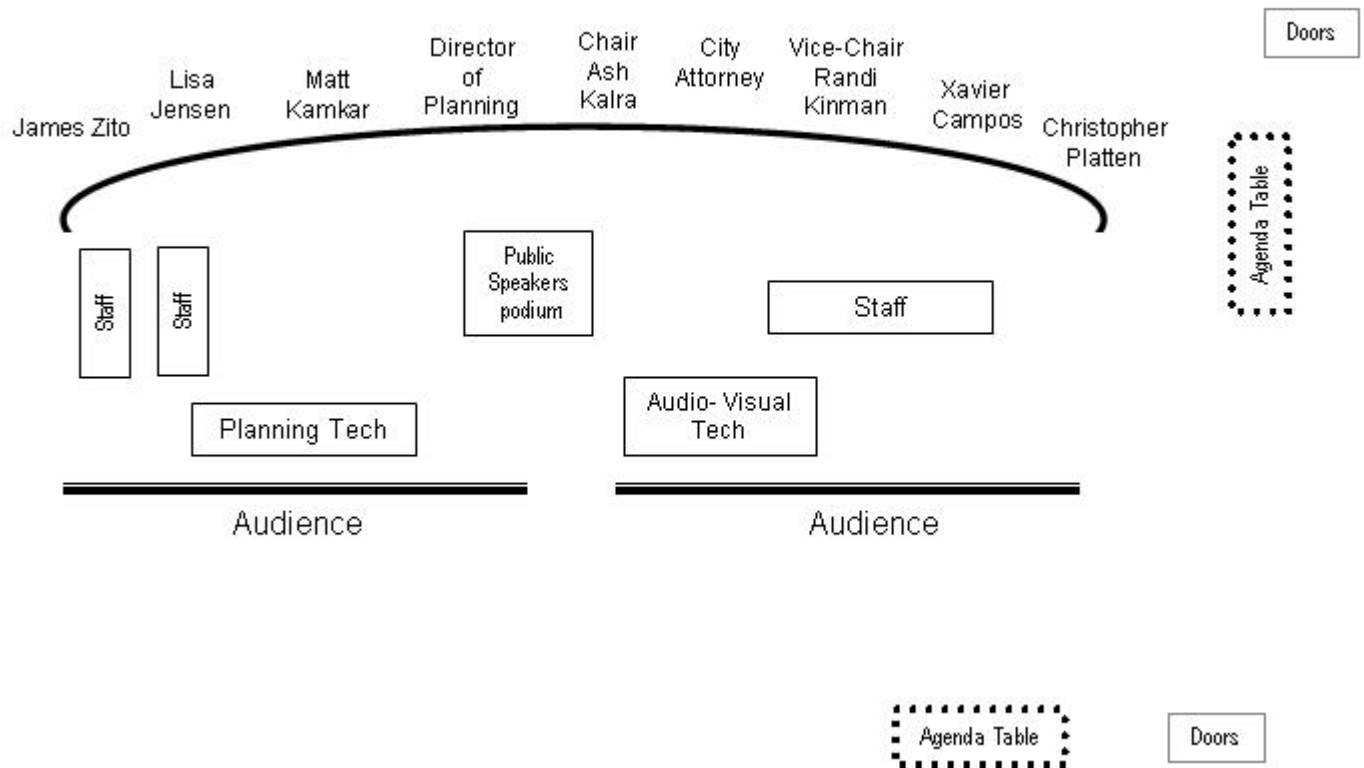
- After the staff report, applicants and appellants may make a 5-minute presentation.
- The chair will call out names on the submitted speaker cards in the order received.
- As your name is called, line up in front of the microphone at the front of the Chamber. Each speaker will have two minutes.
- After the public testimony, the applicant and appellant may make closing remarks for an additional five minutes.
- Planning Commissioners may ask questions of the speakers. These questions will not reduce the speaker's time allowance.
- The public hearing will then be closed and the Planning Commission will take action on the item. The Planning Commission may request staff to respond to the public testimony, ask staff questions, and discuss the item.

If you challenge these land use decisions in court, you may be limited to raising only those issues you or someone else raised at this public hearing or in written correspondence delivered to the City at, or prior to, the public hearing.

The Planning Commission's action on rezoning, prezonings, General Plan Amendments and Code Amendments is advisory only to the City Council. The City Council will hold public hearings on these items. Section 20.120.400 of the Municipal Code provides the procedures for legal protests to the City Council on rezonings and prezonings. The Planning Commission's action on Conditional Use Permit's is appealable to the City Council in accordance with Section 20.100.220 of the Municipal Code. Agendas and a binder of all staff reports have been placed on the table near the door for your convenience.

Note: If you have any agenda questions, please contact Carmen Stanley at carmen.stanley@sanjoseca.gov

The Planning Commission is a seven member body, appointed by the City Council, which makes recommendations to the City Council regarding the adoption, amendment, or repeal of general or specific plans, and regulation of the future physical land use development, redevelopment, rehabilitation or renewal of the City, including its Capital Improvement Programs. The recommendations to the Council regarding land use development regulations include, but are not limited to, zoning and subdivision recommendations. The Commission may make the ultimate decision on Conditional Use Permits, and acts as an appellate body for those persons dissatisfied with the Planning Director's decisions on land use and development matters. The Commission certifies the adequacy of Environmental Impact Reports.



The San José Planning Commission generally meets every 2nd and 4th Wednesday at 6:30 p.m., unless otherwise noted. Agendas and Staff Reports for Planning Commission items may be viewed on the Internet at www.sanjoseca.gov/planning/hearings/planning_com.asp.

Audio for the Planning Commission hearings are recorded and broadcast live. To listen to live audio broadcast or to listen to past hearing recordings go to the Internet website: http://sanjose.granicus.com/ViewPublisher.php?view_id=17#planningCommission.

If you have any questions, please direct them to the Planning staff at (408) 535-7800. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.

AGENDA

ORDER OF BUSINESS

1. **ROLL CALL**

2. **DEFERRALS**

Any item scheduled for hearing this evening for which deferral is being requested will be taken out of order to be heard first on the matter of deferral. A list of staff-recommended deferrals is available on the Press Table.

Staff will provide an update on the items for which deferral is being requested. If you want to change any of the deferral dates recommended, or speak to the question of deferring these or any other items, you should say so at this time.

- a. Consideration of Planning Commission Agenda management and length of public hearing concerns and determination on whether to proceed with remaining agenda items past 11:00 p.m., continue this hearing to a later date certain, or defer remaining items to the next regularly scheduled Planning Commission meeting date. To be heard by the Planning Commission no later than 11:00 p.m.
- b. **CP06-060**. Conditional Use Permit to allow expansion of the previously approved permit conditions regarding business operation after midnight, construction of an interior wall to separate the restaurant from the nightclub to allow patrons under the age of 21 years, and to permit an off-site parking arrangement where patrons would utilize the VTA parking lot at 3390 Monterey Highway. The proposal is for the existing Fiesta Restaurant & Nightclub on a 2.16 gross acres site in the CN Neighborhood Commercial Zoning District, located on the northeast corner Monterey Road and Rancho Drive (3844 MONTEREY RD)(Noghrey Jamshid and Martha E, Owner). Council District 7. SNI: None. CEQA: Exempt.

DEFERRED TO 09-26-07 (7-0-0)

- c. **PDC06-005**. Planned Development Rezoning from R-M Residential District to A(PD) Residential District to demolish the existing residential project and to allow 45 attached single-family units (four stories over a podium garage) on a 0.90 gross acre site, located on the north side of Bark Lane approximately 150 feet west of Weyburn Lane (7201 BARK LN) (Lee Lily Fu And Jason C, Owner). Council District 1. SNI: None. CEQA: Mitigated Negative Declaration.

DEFERRED TO 09-26-07 (7-0-0)

- d. **PDC06-094**. Planned Development Rezoning from LI Light Industrial Zoning District to A(PD) Planned Development Zoning District to allow up to 250 single-family attached residences in three-story buildings constructed on a podium on a 4.4 gross acre site, located at the southwest corner of Cinnabar Street and Stockton Avenue (345 Stockton Avenue) (381 Stockton LLC, Owner; Morrison Park Homes LLC, Developer). Council District: 6. SNI: None. CEQA: Draft Mitigated Negative Declaration. Deferred from 6/27/07, 7/18/07, 8/8/07, 8/22/07.

DROPPED (7-0-0)

3. CONSENT CALENDAR

NOTICE TO THE PUBLIC

The consent calendar items are considered to be routine and will be adopted by one motion. There will be no separate discussion of these items unless a request is made by a member of the Planning Commission, staff, or the public to have an item removed from the consent calendar and considered separately.

Staff will provide an update on the consent calendar. If you wish to speak on one of these items individually, please come to the podium at this time.

- a. **PDC06-060**. Planned Development Rezoning from CP Commercial Pedestrian Zoning District to the A(PD) Planned Development Zoning District to allow up to 10 single-family attached or detached residences and associated improvements on a 0.4 gross acre site, located on the southeast corner of McKee Road and La Pala Drive (3754 McKee Road) (MJ Core Holdings, LLC., Owner). Council District : 5. SNI: None. CEQA: Mitigated Negative Declaration.

RECOMMENDED APPROVAL (7-0-0)

Pulled from consent by Commission Kamkar, with concern about tandem garage units. Staff clarified mix of tandem and side-by-side garages and stated hybrid of unit types. Staff explained this mix allows for more landscaping on driveway. Applicant explained possible changes for more side-by-side garages at PD Permit stage. Commissioner Kamkar reiterated concern about tandem units. Commissioner Zito also stated goal to minimize number of tandem garages. Commissioner Platten moved approval.

- b. **CP07-025**. Conditional Use Permit Renewal to allow an existing public eating, drinking, and entertainment establishment and late night use until 2:00 a.m. daily in the DC Downtown Primary Commercial Zoning District. Britannia Arms, located at 173 W. Santa Clara Street. (The Farmers Union, owner). Council District: 3. SNI: None. CEQA: Exempt. Deferred from 6/27/07, 8/8/07, 8/22/07.

DROPPED (7-0-0)

- c. **CP06-067**. Conditional Use Permit to install one wireless monopole, approximately 56 feet in height, and an associated 350 square foot equipment area, on a 31.93 gross acre site in the R-1-8 Single-Family Residence Zoning District, located on the southeast corner of Marten Avenue and Flint Avenue (1966 Flint Avenue)(Mount Pleasant School District, George Perez, Owner). Council District: 8. SNI: None. CEQA: Exempt.

APPROVED (7-0-0)

- d. **CP07-034**. Conditional Use Permit Renewal to allow an existing public eating and drinking establishment and late night use until 2:00 a.m. daily in the DC Downtown Primary Commercial Zoning District, located on the west side of San Pedro Street, approximately 420 feet north of Santa Clara Street (69 N SAN PEDRO ST)(Cucuzza Family Partnership, Owner). Council District: 3. SNI: None. CEQA: Exempt.

APPROVED (7-0-0)

- e. **CP07-052.** Conditional Use Permit request to convert an existing 808 square-foot building (Roy's Gas Station) to a take-out and outdoor restaurant on a 0.06 gross acre site in the CN - Commercial Neighborhood Zoning District, located on northwest corner of North 5th Street and Jackson Street (197 Jackson St)(Rast Carole K Et Al, Owner). Council District 3. SNI: None. CEQA: Exempt.

APPROVED (7-0-0)

- f. **CP07-019.** Conditional Use Permit to allow off-sale of alcoholic beverages at an existing mini-mart located at a gasoline service station on a 0.63 gross acre site in the CN - Commercial Neighborhood Zoning District, located on the northwest corner of South White and Aborn Roads (3295 S White Road). (Singh Vikram and Kaur Baljinder, Owner). Council District 8. SNI: None. CEQA: Exempt.

DENIED (6-1-0; PLATTEN OPPOSED)

Staff explained rationale for recommendation for approval, noting only commercial area serving 27,000 people at major intersection at White and Aborn. Commissioner Campos pulled the project from consent with concerns about alcohol sales added to mini-mart. Applicant explained the remodeling process to greatly improve service station with car wash and mini-mart to maintain customer base. Commissioner asked applicant about single can sales. Applicant indicated not certain about sales. Commissioner Campos moved denial stating alcohol sales at service stations not a good use and cannot support.

Commissioner Zito explained that two other stations at intersections might also come to Commission for alcohol off-sale. Commissioner Kalra explained he felt Commission had no need to give a permit.

- g. **CP07-035.** Conditional Use Permit to allow a 12,000 square foot out-patient medical clinic in an existing building with minor modifications to the parking layout on a 5.1 acre site in the IP – Industrial Park Zoning District, located at the southeast corner of Santa Teresa and Great Oaks Boulevards (6850 Santa Teresa Blvd, Building B)(Berg & Berg Developers, LP, Owner). Council District: 2. SNI: Edenvale/Great Oaks. CEQA: Exempt.

APPROVED (7-0-0)

- h. **C07-027.** Conventional Rezoning from R-1-8 Single-Family Residence Zoning District to R-M Multiple Residence District on a 0.26 gross acre site, located on the south side of Blossom Hill Road, approximately 70 feet westerly of Hoffman Court (1250 BLOSSOM HILL RD) (Joseph Guerra, Owner; Rockwell Homes, Inc. Joshua Lobue, Developer). Council District 10. SNI: Hoffman/Via Monte. CEQA: Exempt.

DEFERRED TO 09-26-07 (7-0-0)

Commissioner Kinman pulled project from consent as she noticed on-site sign was not in place and stated a two-week deferral would be in order. Staff explained new CUP proposal is now pending and new sign was for that project. Staff clarified that there is no building on site at present, so CUP would be new construction.

In response to Commissioner Zito, staff explained outreach policy requirement for an on-site sign on site within 10 days. Director Horwedel asked applicant why sign for zoning not on display, and applicant explained that language not forwarded from staff. Director explained that legal notice had been completed and that 30 days could be excessive. Commissioner Zito moved deferral to next meeting.

The following items are considered individually.

4. **PUBLIC HEARINGS**

NOTICE TO THE PUBLIC

Generally, the Public Hearing items are considered by the Planning Commission in the order in which they appear on the agenda. However, please be advised that the Commission may take items out of order to facilitate the agenda, such as to accommodate significant public testimony, or may defer discussion of items to later agendas for public hearing time management purposes.

- a. Review and Recommendation of the **Strong Neighborhoods Initiative Delmas Park Neighborhood Improvement Plan Amendment** to the City Council. Council District 3. SNI: Delmas Park. CEQA: Strong Neighborhoods Initiative Program EIR, Resolution No. 71045.

RECOMMENDED APPROVAL (7-0-0)

Staff and NAC members spoke on process to amend NAC Plan for Delmas Park. Commissioner Kalra commended NAC members for their efforts, and significant time spent.

Commissioner Kinman noted several textual errors, and commended NAC's hard work. Commissioner Jensen expressed appreciation for efforts, noting assets in community and residents' hard work, and expressed congratulations. Commissioner Zito thanked neighborhood and moved approval, and expressed best wishes. The motion included recommended edits to document.

- b. **PDC06-112**. Planned Development Rezoning from CP Commercial Pedestrian Zoning District to A(PD) Planned Development Zoning District to allow up to five single-family detached residences on a 0.36 gross acre site, located on the south side of Olga Drive approximately 200 feet easterly of Saratoga Avenue (4170 OLGA DR) (Noel Avenue LLC, Owner). Council District: 1. SNI: Blackford. CEQA: Negative Declaration. Deferred from 8/22/07.

RECOMMENDED APPROVAL (7-0-0)

Staff verbally reported that the project was presented at the Blackford NAC, whose members did not express any major concerns. Other minor changes were recommended by staff to window heights to reduce potential privacy impact to adjacent uses. Applicant spoke on behalf of project. No comments by the Planning Commission. Motion to approve.

- c. **PDC06-004**. Planned Development Rezoning from R-1-2 Residence and CP Commercial Pedestrian Zoning Districts to A(PD) Planned Development Zoning District to allow up to 38 single-family detached residences on a 4.5 gross acre site located on the east side of Monterey Highway, approximately 1,000 feet northerly of Skyway Drive (4280 MONTEREY RD) (Monterey Town Ctr LLC, Owner; Sabercat Holdings Michael Luu, Developer). Council District: 2. SNI: None. CEQA: Mitigated Negative Declaration. Deferred from 8/8/07, 8/22/07.

RECOMMENDED APPROVAL (7-0-0)

Applicant was present, but did not speak, and no one spoke from public. Commissioner Jensen asked if project was referred to ESD, Fire, Building Division, etc. Commissioner Jensen also asked if project would include Green Building Standards. Director noted that

Green Building Standards have not yet been adopted by City Council. Commissioner Jensen encouraged applicant to include ESD recommendation for Green Building elements.

Commissioner Zito questioned if the current plan design was shared with public at GP stage. Gerry De Young noted that no one showed up at the GP meeting, and stated project design has changed only slightly. Commissioner Kinman expressed concerned about small amount of private and common open space. Gerry De Young noted that Dana Rock Park is in walking distance to the north, and staff explained significant grading on sloped site to provide additional useable open space. Motion to approve by Commissioner Campos.

- d. **PDC06-061.** Planned Development Rezoning from the IP Industrial Park Zoning District to the A (PD) Planned Development Zoning District to allow up to 183 single-family attached residences on a 3.16 gross acre site, located on the Northwest side of Baypointe Parkway, approximately 370 feet northerly of Tasman Drive (163 Baypointe Parkway) (First Real Estate, LLC, First Real Estate, LLC Wayne Sun, Owner; FF Development Dan Milich, Developer). Council District: 4. SNI: None. CEQA: Addendum to EIR. Deferred from 8/22/07.

RECOMMEND APPROVAL (7-0-0)

Staff presentation explained project is to provide 2.38 acres of parkland, and is providing \$2.4 million under PDO. Staff stated two community meetings were held, attended by three and eleven members of the community, all generally supportive of the project. One neighbor of Baypointe submitted a letter expressing concern over potential loss of sunlight from the tall buildings in the project.

Applicant prepared and explained a neighborhood master plan emphasizing park, and connections to the park, and that the project includes a 450-foot building setback to address neighbors' concern over sunlight. The applicant noted project is providing 2.38 acre of parkland, plus \$2.4 million for parks, and that 94 school age kids are expected. Applicant requested clarification from staff on required dedications on Baypointe and Tasman.

Commissioner Zito expressed concern about student generation rate of 0.1 used by the applicant, and asked if it takes percentage of for-sale units into account. Director Horwedel clarified that the student generation rate is consistent with the city's data.

Commissioner Campos asked what types of retail were planned and encouraged the applicant to consider a grocery store. The applicant confirmed current discussions for potential retailers with brokers. The applicant stated intention to target convenience and transit-oriented retail, and sit-down restaurants.

Commissioner Jensen requested clarification on plan set pages 5.0.6. and 6.0.2. Director Horwedel clarified.

Commissioner Kamkar stated that one-bedroom and two-bedroom units might be appealing to some families and that school issues need to be taken seriously. He stated the project needs more retail in North San José, and that it will help to alleviate traffic. Commissioner Kamkar asked what procedures would be included to address potential flooding of the garage. Applicant stated that revisions to the flood map are in process with FEMA, and that the project includes multiple stairways connecting to the garage level.

Commissioner Zito stated concern about schools and retail, and asked if the City could do something to generate a five-acre park. He further asked what the status is for the North San José Task Force.

Director Horwedel stated that the city would need land to generate the five-acre park, and that Councilmember has submitted a request for funding. He clarified the task force is meeting tomorrow to discuss schools and will have additional discussions. He clarified the

task force work program will be directed on September 25, 2007 at the City Council meeting, and that the focus is on residential services including parks and schools. He stated the Council will also discuss the treatment of “pipeline” applications on the 25th.

Commissioner Jensen requested clarification on the number of units and what assurance staff needs related to the parks. Staff explained that the proposed units for item 4.e. (Tasman) grew from 620 to 706 during review of the project and that dedication of the parkland will be needed before approval of PD Permits for either project.

Commissioner Kamkar asked if PRNS has money to operate the parks. Matt Cano, PRNS staff, explained that money for new parks is not in their current budget, but staff will request it as part of their funding when parks are built.

Commissioner Kalra asked for clarification of the consent/dedication needed. Amit Mutsuddy, Public Works staff, explained that the project will need to dedicate 3 feet to match 10 foot sidewalk, which is standard for all North San José projects.

Commissioner Zito motioned to approve 4.d. and 4.e. with ongoing concerns about adequacy of parks, schools, and retail for housing in North San José.

- e. **PDC06-093.** Planned Development Rezoning from IP Industrial Park Zoning District to A(PD) Planned Development Zoning to allow up to 705 single-family and multi-family attached residences, 25,000 square foot retail space, and underground parking on a 10.01 gross acre site, located on the northwest corner of Zanker Road and Tasman Drive (3811 Zanker Road) (Zanker Road Invrs LLC, Owner). Council District: 4. SNI: None. CEQA: Addendum to EIR. Deferred from 8/22/07.

RECOMMENDED APPROVAL (7-0-0)

See 4.d. notes.

5. PETITIONS AND COMMUNICATIONS

- a. Public comments to the Planning Commission on nonagendized items. Please fill out a speaker's card and give it to the technician. Each member of the public may address the Commission for up to three minutes. The commission cannot take any formal action without the item being properly noticed and placed on an agenda. In response to public comment, the Planning Commission is limited to the following options:
 - 1) Responding to statements made or questions posed by members of the public; or
 - 2) Requesting staff to report back on a matter at a subsequent meeting; or
 - 3) Directing staff to place the item on a future agenda.

None.

6. REFERRALS FROM CITY COUNCIL, BOARDS, COMMISSIONS OR OTHER AGENCIES

None.

7. **GOOD AND WELFARE**

a. Report from City Council

Director Horwedel provided summary of City Council that approved of Song/Irvine and the Market projects. City Council voted 6-5 to keep the park in using project at center as proposed by applicant with the condition that both projects to achieve LEED Silver as comparable. Green Building is becoming concern of the City Council.

b. Commissioners' report from Committees:

1) Norman Y. Mineta San José International Airport Noise Advisory Committee (Campos).

The Airport has acquired new sound monitoring devices. The Committee will be visiting the installation sites. Should be in use in 1-2 months; only one home is left in the noise contour to receive sound mitigation and then Airport will no longer need a variance for noise.

2) Coyote Valley Specific Plan (Platten).

CVSP Task Force discussed the sequencing of infrastructure impacts. No action was taken.

3) Parks Funding Subcommittee (Zito).

Committee discussed problems with parks funding.

4) Envision San José 2040 General Plan Update Process (Kamkar).

The first Committee meeting will be on Monday, September 17, 2007.

c. Review of synopsis for 8/22/07.

Synopsis was approved 7-0-0.

d. Consider study session dates and/or topics.

1) Confirm Annual Retreat for Thursday, October 25, 2007, from 8:30 a.m. to 5:00 p.m.

Commissioner Kamkar proposed moving date of retreat to November 8 or some other Thursday following a Planning Commission meeting, depending upon staff availability, Commission concurred.

8. **ADJOURNMENT**

2007 PLANNING COMMISSION MEETING SCHEDULE

Date	Time	Type of Meeting	Location
January 31	6:30 p.m.	Regular Meeting	Council Chambers
Mon. February 12	6:30 p.m.	Regular Meeting	Council Chambers
February 28	6:30 p.m.	Regular Meeting	Council Chambers
March 14	5:00 p.m.	<i>Study Session</i>	T-332
		<i>Coyote Valley Specific Plan EIR</i>	
March 14	6:30 p.m.	General Plan & Regular Meeting	Council Chambers
March 28	5:00 p.m.	<i>Study Session</i>	T-332
		<i>Meeting Procedures and Commission Role</i>	
March 28	6:30 p.m.	General Plan & Regular Meeting	Council Chambers
April 11	5:00 p.m.	<i>Study Session</i>	T-332
		<i>Early Public Outreach for General Plan Update</i>	
April 11	6:30 p.m.	Regular Meeting	Council Chambers
April 25	5:00 p.m.	<i>Study Session</i>	T-332
		<i>Level of Service Policy</i>	
April 25	6:30 p.m.	General Plan & Regular Meeting	Council Chambers
May 2	5:00 p.m.	<i>Study Session</i>	T-1654
		<i>Review Capital Improvement Program</i>	
May 2	6:30 p.m.	General Plan & Regular Meeting	Council Chambers
May 16	6:00 p.m.	<i>Study Session</i>	T-332
		<i>Sunshine Reform Task Force Recommendations</i>	
May 16	6:30 p.m.	Regular Meeting	Council Chambers
May 30	5:00 p.m.	<i>Study Session</i>	T-332
		<i>Economic Development/Retail Strategy</i>	
May 30	6:30 p.m.	Regular Meeting	Council Chambers
Mon., June 11	6:30 p.m.	Regular Meeting	W-118 / 119 / 120
June 27	5:00 p.m.	<i>Joint Study Session w/Parks Commission</i>	W-120
		<i>Riparian Corridor issues</i>	
June 27	6:30 p.m.	Regular Meeting	Council Chambers
July 18	6:30 p.m.	Regular Meeting	Council Chambers
August 8	5:00 p.m.	<i>Study Session</i>	T-332
		<i>Street Vacations and Easements</i>	
August 8	6:30 p.m.	Regular Meeting	Council Chambers
August 22	6:30 p.m.	Regular Meeting	Council Chambers
September 12	5:00 p.m.	<i>Study Session</i>	T-332
		<i>Process for Referring Development Projects to the SNI NACS</i>	
September 12	6:30 p.m.	Regular Meeting	Council Chambers
September 26	6:30 p.m.	Regular Meeting	Council Chambers
October 10	6:30 p.m.	Regular Meeting	Council Chambers
October 24	6:30 p.m.	Regular Meeting	Council Chambers
November 7	6:30 p.m.	Regular Meeting	Council Chambers
November 14	6:30 p.m.	Regular Meeting	Council Chambers
November 28	6:30 p.m.	Regular Meeting	Council Chambers
December 5	6:30 p.m.	Regular Meeting	Council Chambers